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Promotion and protection of human rights: implementation of human rights instruments

Letter dated 19 October 2006 from the Permanent Representative of Uzbekistan to the United Nations addressed to the Secretary-General

I have the honour to forward the information on follow-up and realization of the recommendations of Theo Van Boven, Special Rapporteur on the question of torture, who visited Uzbekistan in November 2002 on the invitation of the Government of the Republic of Uzbekistan (see annex).

I would appreciate it if you could circulate the present letter and its annex as a document of the General Assembly under agenda item 67 (a).

(*Signed*) Alisher **Vohidov**
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Annex to the letter dated 19 October 2006 from the Permanent Representative of Uzbekistan to the United Nations addressed to the Secretary-General

Information on follow-up and realization of the recommendations of the Special Rapporteur on the question of torture

1. The Special Rapporteur on the question of torture, Theo Van Boven, visited Uzbekistan in November 2002 for the first time, upon the invitation of the Government of the Republic of Uzbekistan. During his visit, he had a number of official meetings with high-ranking officials, representatives of civil society groups, international organizations and foreign embassies. He also visited a number of penitentiaries.

2. The Special Rapporteur met with persons who were themselves, or relatives of, alleged victims of torture and other cruel treatment. He also received oral and written information from non-governmental organizations and institutions of civil society, including the human rights organizations Mothers Against Capital Punishment and Torture, the Legal Aid Society, the Human Rights Society of Uzbekistan, the Independent Human Rights Organization of Uzbekistan, Freedom House, Mazlum, Ezgulik, the Committee on legal aid to prisoners, the Human Rights Initiative Group, the Centre for Democratic Initiatives and the Tashkent human rights protection group. Moreover, he met representatives of the United Nations Development Programme (UNDP) in Uzbekistan and representatives of the Tashkent office of the Organization for Security and Cooperation in Europe (OSCE).

3. In February 2003, the Special Rapporteur presented a report containing recommendations for the Government of Uzbekistan to improve measures to fight torture. On the basis of that report, a national plan of action was elaborated, which was approved by the Government of Uzbekistan on 9 March 2004. All clauses of that plan have been implemented.

Recommendation (a)

4. In accordance with the recommendations of the Special Rapporteur (see E/CN.4/2003/68/Add.2), all three branches of power in Uzbekistan have publicly condemned torture of all kinds.

5. **Legislative branch.** In August 2003, Parliament adopted amendments to article 235 of the penal code of Uzbekistan, which now states that torture and other cruel, inhuman and degrading treatment or punishment at any stage of criminal proceedings are crimes and must be prosecuted by law. The article is now in line with article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment.

6. **Executive branch.** Abdulaziz Kamilov, the then State Adviser to the President of Uzbekistan, at a briefing for the diplomatic corps and foreign journalists in March 2003, pointed out that the State was going to fight against torture and other types of cruel treatment. In March 2004, a special Government programme to implement the Convention against Torture was adopted.

7. In May 2004, the coordinating council of law enforcement agencies of the General Prosecutor's Office of Uzbekistan considered the issue of compliance by law enforcement agency officers with international commitments, in line with the Convention against Torture, and discussed adherence to legal requirements during the examination of claims and complaints from citizens on illegal actions by officers of law enforcement and supervisory bodies. The board of the General Prosecutor's Office also discussed the issue of strengthening the Prosecutor's control over the respect for constitutional rights during detention, indictment and arrest.

8. On 22 May 2003, the board of the Ministry of Internal Affairs raised the issue of legislation concerning the bodies of internal affairs, other ways to improve it and human rights. The inadmissibility of any violation of law or human rights of any form in the activities of law enforcement agencies, including prohibited methods of investigation and interrogation (i.e., torture), were included in the resolution adopted by the board. In its resolution, the board highlighted the necessity to increase attention to claims linked with torture and illegal actions by officers of law enforcement agencies, and also created additional controls over their activities.

9. **Judicial branch**. On 19 December 2003, the plenary session of the Supreme Court of Uzbekistan adopted resolution 17 on the implementation by courts of laws providing suspects or defendants with the right to defence, which provides an interpretation of "torture" in accordance with the Convention against Torture. Moreover, resolution 12 of 24 September 2004 on the implementation of certain norms of the code of penal procedure on the admissibility of evidence states that evidence obtained by torture is unacceptable.

Recommendation (b)

10. Recommendation "b" states that the Government should amend its domestic penal law to include the crime of torture, the definition of which should be fully in consistent with article 1 of the Convention against Torture and supported by an adequate penalty.

11. In its domestic legislation, Uzbekistan has made crimes connected with torture a separate category of crime. In its revised form, article 235 of the penal code on the use of torture and other forms of cruel, inhuman or degrading treatment and punishment states that the use of torture and other forms of cruel, inhuman or degrading treatment and punishment (i.e., illegal mental or physical coercion) on a suspect, defendant, witness, victim or other participant in a criminal process, or a person serving punishment, his or her relatives by threats, striking, assault, torture or other illegal actions by an inspector of inquiry, investigator, prosecutor or other official of a law enforcement body or correctional facility in order to obtain from him or her information, confession, unauthorized punishment for their crime or their coercion to accomplish any action, will be punishable by reformatory work for up to three years or by imprisonment for up to three years. The same actions carried out (a) with the use of violence that endangers life and health, or the threat of use of such violence; (b) under any motivation based on grounds of national, racial, religious or social discrimination; (c) by a group of persons; (d) repeatedly; (e) with regard to a minor or a woman, knowing that she is pregnant are punishable by three to five years' imprisonment.

12. Actions causing serious physical injury or other grave consequences are punishable by imprisonment with disenfranchisement for a term of five to eight years.

13. Resolution 17 of the plenary session of the Supreme Court of Uzbekistan gives an interpretation of torture in line with the Convention against Torture.

14. On 18 December 2003, the Minister for Internal Affairs issued Instruction 334 with an explanation of the purposes and substance of the introduction of that article to the penal code, as well as instructions on the obligatory studying of relative norms and the establishment of specific arrangements for registering and checking complaints and claims by citizens. All measures and amendments to the legislation concerning the implementation of the programme have been widely covered by the mass media.

15. Articles condemning all forms of torture regularly appear in newspapers (*Khayot va Qonun, Golos Uzbekistana, Narodnoye Slovo, Pravda Vostoka*) and magazines (*Demokratizatsiya, I Prava Cheloveka, Khukuk-Pravo-Law, Obshchestvennye nauki Uzbekistane, Advokat*). Law amendments are published in the parliamentary periodical *Vedomosti Oliy Majlisa Respubliki Uzbekistan*. The mass media constantly explain the rights of citizens when dealing with law enforcement officers.

16. In January 2004, the *Torture Reporting Handbook* by Camille Giffard (Human Rights Centre, Essex University, United Kingdom, 2000) was translated into Uzbek and published with the assistance of the British Embassy in Tashkent. This handbook has been distributed to officials of law enforcement agencies and non-governmental organizations. At the session of the interdepartmental working group on the observance of human rights by law enforcement agencies held on 12 June 2004, the results of work on the translation and publishing of the book and its distribution to the officials of law enforcement agencies were considered.

17. In compliance with new requirements, the Ministry of Internal Affairs regularly examines the practice of detaining suspects by law enforcement agencies, in accordance with article 225, and the use of the right to appeal the measures of preventive punishment, in accordance with article 241 of the code of penal procedure.

18. At the meeting of the board of the General Prosecutor's Office held on 20 May 2004, the results of an examination of the practice of suspect detention by law enforcement agencies, in accordance with article 225, and use of the right to appeal the measures of preventive punishment, in accordance with article 241 of the code of penal procedure, were discussed. Resolutions concerning these issues have been adopted by the board of the General Prosecutor's Office and the coordinating council of law enforcement agencies.

Recommendation (c)

19. On 8 August 2005, the presidential decree on the transfer of the right to issue arrest warrants to courts (introduction of habeas corpus) was adopted. According to the decree, as from 1 January 2008, the right to issue warrants for the arrest of persons suspected or accused of committing crimes will be transferred to courts. Amendments of and additions to the code of penal procedure and the correctional

code as well as the laws of Uzbekistan relating to the courts and prosecutors are being prepared.

20. On 20 and 21 October 2003, a round table on the right to fair trial and the introduction of habeas corpus was held in Tashkent. It was organized by the American Bar Association, the Office for Democratic Institutions and Human Rights of OSCE, UNDP and the National Human Rights Centre of Uzbekistan. An American professor on criminal procedure, Steven Taman, attended the round table.

21. At the session of the interdepartmental working group on monitoring the observance of human rights held on 24 August 2004, participants discussed the results of the round table on the implementation of habeas corpus in the national legislation of foreign States and international practices. The group decided:

(a) To note that the Ministry of Internal Affairs, together with the National Human Rights Centre, with the support of the American Bar Association, had held the round table discussions with the participation of foreign experts on the implementation of habeas corpus in the national legislation of foreign States and international practice;

(b) To note that all requirements of the action plan on the realization of the Convention against Torture had been implemented. The brochure on international agreements on human rights has been translated and will be published and distributed to law enforcement agencies in the near future.

22. The programme on the improvement of material, technical and financial support to courts, judges and court clerks has been developed and approved by the Department for the discharge of court rulings, court material and technical support.

23. The implementation of the programme is regularly evaluated by the interdepartmental working group on monitoring the action plan. Thus, all courts are fully equipped with computers and transport. New court buildings have been opened and the construction of new buildings and renovations are continuing in the Republic of Karakalpakstan as well as in Tashkent, Ferghana, Samarkand, Syrdarya and other provinces.

24. A scientific conference on the theme "Interrelations between judicial and extra-judicial protection of human rights: international practice" was held on 10 September 2004. Subsequent to the results of the conference, a resolution on cooperation between the Ombudsman and law enforcement agencies was adopted. Moreover, taking into account the participants' recommendations, a framework for cooperation between the Ombudsman and law enforcement agencies was elaborated.

25. In 2005 and 2006, a number of international conferences on the study and introduction of habeas corpus principles into the national legislation of Uzbekistan were held. With the assistance of the Friedrich Ebert Foundation, seminars on the issue of the independence of judges were held in various cities of Uzbekistan (Tashkent, Bukhara, Samarkand, Nukus and Urgench) in which a member of the Bundestag, the former Federal Minister of Justice of Germany, Herta Däubler-Gmelin, participated. A number of international seminars on the legal issues of transferring the right to issue arrest warrants from the office of the prosecutor to courts was held in the Tashkent State Juridical Institute with the assistance of the American Bar Association.

26. On 25 April 2005, the Committee on Legislation and Court and Legal Issues of the Legislative Chamber of the Oliy Majlis of Uzbekistan arranged a conference on the theme "Improving the legislative basis for ensuring the efficiency of the judicial system and rule of law". The event was widely covered by the national mass media.

27. The centre for the study of public opinion *Ijtimoiy fikr* undertook a survey on torture and similar cruel treatment during interrogation, investigation and imprisonment among imprisoned individuals and previously imprisoned persons.

Recommendation (d)

28. On 8 August 2005, the decree of the President of Uzbekistan on transferring to courts the right to issue arrest warrants was adopted.

29. In recent years, significant work has been carried out to ensure legality in the activity of law enforcement bodies, strengthen the authority of the judiciary as a major guarantee of the effective protection of human rights, ensure the true independence of courts and strengthen their role in the construction of a democratic State and a strong civil society.

30. The specialization of courts in criminal, civil and economic affairs is fixed by law. This has allowed the improvement of the investigative quality of legal proceedings and the strengthening of guarantees of citizens' rights and freedoms. An appeal procedure for case proceedings was introduced to guarantee the correction of judicial errors and the prevention of procrastination in legal proceedings. Cassation procedure has been reformed; citizens now have an opportunity to personally and directly protect their rights in the event of disagreement with a court verdict. The legal mechanisms providing equality of defence and prosecutor's rights in trial proceedings, as well as the realization of the principle of competitiveness, have also been created.

31. The terms of preliminary investigation have been reduced from two years to one, and detention from 1.5 years to 9 months (in exceptional cases, up to 1 year). The extent of application of this preventive punishment has also been limited.

32. The measures on the liberalization of legislation have resulted in an increase in the efficiency and quality of pre-judicial investigations and the administration of justice, as well as an expansion in guarantees of rights of persons involved in trial proceedings.

33. An example of the liberalization of pre-judicial investigation methods is that the use of such preventive detention has been more than halved over the past four years.

34. One major task in the liberalization of the judicial-legal system is the expansion of the powers of courts in effectively protecting the rights of citizens during pre-judicial investigations and, above all, the transfer of the right to issue arrest warrants from the Prosecutor's Office to the court. The measure will considerably improve the efficiency of the protection of citizens' constitutional right to freedom and personal security, in full compliance with the Constitution of Uzbekistan and the universal principles and norms of international law establishing that rights and personal freedoms are firm and that nobody has the right to deprive a person of them or limit them without a court order.

35. At the same time the transfer of rights to the competence of the courts should be carried out consistently after thorough examination and the introduction of relevant modifications of and additions to the code of criminal procedure and the correctional code of Uzbekistan and other legislation, studying foreign experience in this area, developing organizational, legal and procedural mechanisms for the exercise by the courts of the right to issue arrest warrants, preparing and retraining personnel of judicial and law enforcement bodies, and implementing other preparatory measures.

36. With a view to further liberalize the judicial and legal system, ensure the gradual and ongoing transfer to courts of the right to authorize preventive measures related to the restriction of constitutional rights and personal freedoms, and pursuant to articles 19, 25 and 44 of the Constitution of Uzbekistan, establishing rights of citizens to judicial protection, the decision was made:

(a) To transfer to the competence of courts, as from 1 January 2008, the right to issue warrants for the arrest of persons suspected or accused of committing crimes;

(b) To specify that arrests should be carried out only in exceptional cases, when other preventive measures established by law are deemed ineffective and only by the decision of a criminal or martial court.

37. With a view to ensuring the independence of judicial authorities, the further democratization of the principles of selection and appointment of judicial staff, as well as the designation of persons to be appointed as judges, in accordance with the order of the President of Uzbekistan of 30 July 1999, a commission for the consideration of issues connected to the appointment and dismissal of judges was established by the President of Uzbekistan.

38. In order to improve the selection of candidates and the appointment of judges and enforce observance of legal requirements when recommending qualified, erudite and highly moral experts for judicial posts, the said commission was transformed by the decree of the President of Uzbekistan of 4 May 2000 into the Supreme Qualifying Commission for the selection and recommendation of judges under the Office of the President of Uzbekistan. The Commission comprises judges, members of Parliament, representatives of qualifying boards of judges, public associations and highly skilled experts in the field of law. The functions of proposing, suspending and early dismissal of judges, previously assigned to the Minister of Justice, have now been transferred to the Supreme Qualifying Commission.

39. At the same time, the issue of the terms of office of judges is being considered in the framework of the judicial-legal reform being implemented in Uzbekistan.

Recommendation (e)

40. The Department of Investigation of the Ministry of Internal Affairs and the Uzbekistan Bar Association have jointly elaborated and put into practice the regulation on ensuring the rights of detained, suspected and accused individuals to a defence during preliminary investigation and interrogation. With the introduction of this regulation, due control over the behaviour and professional conduct of law enforcement officials is established. The regulation fully outlaws illegal actions against detained, suspected and accused individuals.

41. The implementation of action plans for control of the activities of law enforcement officials in order to prevent torture and other cruel treatment made possible the development of an instruction for prosecutors on the implementation of article 243 of the code of penal procedure. According to that instruction, prosecutors must personally examine suspected or accused persons and their treatment during investigations. Thus, prosecutors now personally carry out the interrogation of suspected or accused minors and women on criminal cases. A centralized system for the registration of relevant applications and complaints, their periodic summarizing and due administrative decisions has been envisioned.

42. In October 2005, the Committee for international affairs and inter-parliamentarian relations of the legislative chamber of the Oliy Majlis conducted activities on parliamentarian control on the implementation of the Convention against Torture. As part of the control, a number of preliminary confinement sites and prisons were visited in Tashkent Province (Zangiota district and the towns of Chirchik, Olmalyk and Bekabad), and the activities of lawyer collegiums, bodies of internal affairs, national security service and prosecutors' offices as well as those of courts, were reviewed and analysed. Particular attention was paid by the parliamentarians to the review of the activities of law enforcement agencies in the light of the recommendations of the Special Rapporteur and the independent expert, Latif Huseynov. A video film was developed on the results of the parliamentarian control.

43. A seminar organized by the legislative chamber of the Oliy Majlis, with the support of UNDP, was conducted in June 2006 with the participation of representatives of law enforcement bodies and members of Parliament. The seminar was dedicated to the implementation of the provisions of the Convention against Torture.

44. Another very important tool to review citizens' complaints is the Ombudsman who, since 2005, has acted on the basis of the revised law. The new law gives all legal grounds for carrying out independent investigations of torture and other abuses by official authorities. According to article 10 of the law, the Ombudsman examines complaints about actions or negligence of authorities or officials who violate the rights, freedoms and interests of citizens. The Ombudsman also has the right to initiate his own investigations.

45. The adoption of the new law guaranteeing independent investigations is proof that the institution of the Ombudsman has been introduced into the criminal and procedural practices of Uzbekistan. The Government and its law enforcement agencies are ready to cooperate in carrying out independent investigations of complaints and other claims of torture that provoked negative public and international response.

46. A procedure for so-called "independent investigations" of the death of suspected and accused persons has been developed. The involvement of authoritative public figures, human rights activists and relatives of the deceased is envisaged as part of the process of investigation. In our opinion, it will also provide impartiality and legitimacy of the results of examination.

47. Recently, the draft of a law on the detention of suspects and accused individuals was developed in Uzbekistan. The document defines the legal status of these individuals, their rights and responsibilities, the regime and conditions of

preliminary detention, and the organization of public control of the observance of the rights and freedoms of persons in custody.

Recommendation (f)

48. In accordance with articles 256, 257 and 266 of the code of penal procedure, officials accused of torture may now be dismissed. A total of 89 complaints of torture against internal affairs operatives were received by the Ministry of Internal Affairs from October 2004 to November 2005. Investigations have shown that one case (in 2004) and 10 cases (in 2005) of unlawful actions of internal affairs operatives were recorded. Five cases were forwarded to the prosecutor for criminal investigations. The perpetrators of two criminal cases were sentenced to a term of imprisonment.

Recommendation (g)

49. On 24 June 2004, on the basis of the decision by the Collegium of the Ministry of Internal Affairs of Uzbekistan dated 22 May 2003, the Ministry issued decree 187, "Formation of the Central Commission on human rights". As an annex to that decree, a plan of action was developed and approved. The plan focuses on strengthening lawfulness and ensuring the observance of human rights in internal affairs bodies. Additionally, a draft for further development and improvement of the correctional system of the Ministry for the period to 2010 has been developed.

50. In accordance with the decree, the above-mentioned Commission, chaired by the Minister for Internal Affairs, has been created. Information on work carried out on the ground is to be provided to the Commission on a monthly basis for analysis and summary.

51. Claims of torture in the system of the Ministry are reviewed by special internal security units that are directly subordinate to the Ministry for Internal Affairs. The units are practically independent; they do not deal with combating crime and are not subordinate to departments that do.

52. Representatives of the public, institutions of civil society and in some cases foreign experts are invited to participate in the investigation of cases of torture, especially those relating to the death of detainees and arrested persons, or of events causing a public outcry. Senior officials of the Ministry of Internal Affairs review all claims of unlawful action. Convicted persons are usually dismissed from office. Pursuant to the provisions of article 235 of the penal code of Uzbekistan, two internal affairs operatives were sentenced to prison for unlawful actions in 2004 and 2005.

53. On 30 September 2005, a new cell on human rights protection and relations with international organizations and the public was created by decree of the Minister for Internal Affairs to increase the legal literacy of the public and to provide it with legal assistance. Cell officers are authorized to review and investigate complaints of unlawful actions, including acts of torture, by internal affairs operatives.

54. In 2003, the national security service informed all its divisions that, in the event of violation of citizens' rights by service personnel, not only guilty officers but also their supervisors would be punished.

55. Representatives of the Ministry for Internal Affairs regularly participate in conferences and round tables organized by the National Human Rights Centre of Uzbekistan, the Ombudsman, UNDP, OSCE and other international organizations. In December 2003, a representative of the Ministry for Internal Affairs participated in the international workshop on the fight against torture held in Almaty, Kazakhstan, with the financial support of the British Foreign Office and in cooperation with the International Bar Association. In July 2003, 10 officials from the Department of Correctional Facilities of the Ministry for Internal Affairs attended summer courses on improving the effectiveness of Central Asian penitentiary bodies, organized by OSCE.

56. In the framework of the implementation plan of the recommendations of the Committee against Torture, the OSCE centre in Tashkent along with the Department of Correctional Facilities is conducting a project aimed at increasing the level of legal awareness of penitentiary personnel and inmates and their familiarization with basic international standards in human rights. As part of the project, the Department has established its own training centre to retrain and improve the skills of the correctional facility personnel.

57. In August 2003, in the framework of a training programme proposed by the OSCE centre in Tashkent for penitentiary system personnel, regional seminars on human rights and international standards on treatment of inmates were conducted in the cities of Tashkent, Navoi and Karshi.

58. In October 2003, seven officials from the correctional system, assisted by experts from the Helsinki Human Rights Foundation, underwent a "train-the-trainers" programme on human rights in Poland. In May 2003, another seven officials from correctional agencies of the Ministry for Internal Affairs attended summer seminars on human rights, organized by the Pavlodar Law College of the Ministry of Justice of Kazakhstan. With the support of the Konrad Adenauer Foundation, Uzbekistan hosted regional seminars on the liberalization of the correctional system in 2004. UNDP, together with Freedom House and the United States Embassy in Tashkent, ran a training tour to Slovenia (from 23 October to 2 November 2004) with the participation of five Government officials (from the Ministry for Internal Affairs, the National Security Service and the Prosecutor's Office) and four human rights activists. The aim was to share experience in the introduction of human rights standards into the work of law enforcement agencies and to establish contacts between them, as well as to examine the feasibility of the creation of a permanent commission to monitor human rights violations and cases of death in detention and custody. After these joint events, a number of discussions on different human rights issues and concrete cases were held among the appropriate authorities, human rights activists and representatives of the donor community, under the auspices of Freedom House.

59. In 2004, the Ministry of Internal Affairs officially requested UNDP to train mid-level officers in monitoring human rights, observing the situation and drafting documentation. A total of 20 officials were trained. Three small grants were allocated to implement the joint human rights initiatives of the Government and non-governmental organizations. One of the projects is a joint initiative developed by the Department of Internal Affairs of Jizak Province and the organization Istiqboli Avlod, to create a legal training centre for officers of law enforcement agencies to provide consultations and educate on human rights. A total of 120

officers of the Ministry of Internal Affairs from Jizak have been trained on human rights and related issues.

60. Ministry officials have visited Austria, Bahrain, Japan, Turkey, the United Arab Emirates, the United States and other countries to study international experience in observance of human rights by law enforcement agencies.

Recommendation (h)

61. The Department of Correctional Facilities of the Ministry of Internal Affairs ensures unimpeded access to correctional sites for representatives of the diplomatic corps, international non-governmental organizations, local non-governmental and non-commercial organizations and the mass media. Moreover, the Ministry of Justice has developed and registered an instruction on the visits of diplomats, representatives of international and domestic non-governmental organizations and local and foreign journalists to penitentiaries. The instruction was published in the bulletin of the Ministry of Justice. The Department distributed the instruction to international and domestic non-governmental organizations.

62. The Government is developing a system of access to correctional institutions for representatives of civil society groups. In that regard, the Department has elaborated a new standard agreement on the access of non-governmental organizations to places of detention.

63. Uzbekistan has cooperated with OSCE, which in recent years has organized special training programmes in the monitoring and drafting of reports on human rights.

64. From 2002 to 2004, experts from the Office for Democratic Institutions and Human Rights of OSCE visited a number of correctional sites in the city of Tashkent and in the provinces of Tashkent, Samarkand, Bukhara, Navoi, Khorezm and Kashkadarya.

65. On the basis of an agreement between the Government of Uzbekistan and the International Committee of the Red Cross (ICRC) on humanitarian activities in places of detention, ICRC representatives conducted 4 visits to penitentiaries in 2001, 5 in 2002, 33 in 2003 and over 50 in 2004.

66. With the assistance of the Department of Correctional Facilities, ICRC representatives had private conversations with 893 prisoners to discuss prison conditions and whether they had been subjected to torture and other kinds of cruel or degrading treatment. The Department officially declared its readiness and intention to establish and develop constant dialogue, organize meetings and take other measures to monitor human rights practices in prisons.

67. In 2003, OSCE experts visited six prisons and other penitentiary sites, the representative of Penal Reform International Baroness Vivien Stern visited two, while the head of the Freedom House office in Tashkent visited one. European Union experts, diplomatic representatives of the United States, France, Germany, the United Kingdom of Great Britain and Northern Ireland, Italy, the Netherlands, Russia, the Islamic Republic of Iran and other countries, journalists of Reuters, Agence France-Presse, Associated Press, the BBC and others frequently visited prisons and other penitentiary sites.

68. In June 2004, the representative of Freedom House in Tashkent, Mjusa Sever, and the adviser to the United States Ambassador to Uzbekistan on socio-economic and political issues, Sylvia Curran, visited a prison located in Zhaslyk, in the Republic of Karakalpakstan. In 2005, international and local non-governmental organizations made nine visits to penitentiary sites of the Ministry of Internal Affairs, including two inspections of correctional facilities. On 3 February 2005, in the framework of the programme to fight tuberculosis, representatives of the KFW-Bank in Central Asia visited correctional facility 64/75 in the town of Pskent. From 10 March to 10 May 2005, the local non-governmental and non-commercial organization legal training centre (Tashkent city) conducted an inspection of correctional facility 64/3 in Tavaksai village, on the theme "The right of access to emergency medical aid".

69. From 10 March to 10 June, the non-governmental organizations regional centre of social adaptation and reproductive health of women (Chirchik), the information-educational centre Intilish (Aspiration) and the Institute of woman and society carried out an inspection on the theme "Implementation of the norms of international law in the national legislation concerning women serving sentences in the Republic of Uzbekistan".

70. On 17 March 2005, the editor of the Tashkent channel of the State broadcasting company, T. A. Haljakina, interviewed convicts in correctional facility UJA-64/7 (Tashkent) with the purpose of demonstrating a healthy way of life, refusal of harmful habits and prevention of AIDS and drug addiction in the correctional system.

71. On 27 April 2005, an expert from the international non-governmental organization KFW/EPOS, A. Nejer, visited facility UJA-64/18. On 22 June 2005, representatives of the International Rehabilitation Council for Torture Victims (Copenhagen) visited facility UJA-64/1. On 20 September 2005, a representative of the German Association of Public Universities visited facility UJA-64/3 to assess the requirements for training convicts in professional skills in the field of education. On 21 September, a visit was made to facility UJA-64/3BK, and, on 26 September, to facility UJA-64/T-1 (Andizhan). In October 2004, an independent expert of the Commission on Human Rights, Latif Huseynov, visited a number of correctional institutions, including prisons and detention centres.

72. The basic purpose of all visits was to become acquainted with the treatment of convicts and their living conditions, and to detect any cases of torture or other kinds of degrading treatment or punishment.

Recommendation (i)

73. The implementation of measures to ensure control over actions of law enforcement agency officers and prevent torture and other cruel treatment permitted the development of an instruction for prosecutors on the implementation of article 243 of the code of penal procedure. According to the instruction, prosecutors personally examine suspected or accused persons for indications of their treatment during investigations. Today, interrogations of suspected or accused minors and women in criminal cases are conducted by the prosecutor personally, in compliance with recommendation (i) of the Special Rapporteur.

Recommendation (j)

74. The plenary session of the Supreme Court examined the enforcement of articles 85 and 95 of the code of penal procedure, according to which evidence collected through unauthorized methods of investigation is to be considered inadmissible.

75. At its plenary session on 19 December 2003, the Supreme Court adopted resolution 17 on the application by courts of laws providing suspects or accused persons the right to a defence. Article 19 of that resolution states that evidence collected through torture, coercion, deceit or any other cruel or degrading treatment and unlawful measures, as well as through violation of the rights of the suspect or accused, cannot be used to bring charges. The resolution states that evidence received in violation of the provisions of penal procedure law is considered inadmissible and invalid. The same requirement is stipulated in article 3 of decision 12 of the plenum of the Supreme Court of 24 September 2004 on the application of norms of penal law regarding the inadmissibility of evidence.

Recommendation (k)

76. The recommendation of the Special Rapporteur states that judges must always ask persons delivered from custody by the Ministry of Internal Affairs or the national security service how they have been treated, pay special attention to their condition and, if needed, to order a medical examination of their physical condition, even if there are no complaints on the part of the detainee.

77. Article 19 of decision 17 of the Supreme Court also stipulates that the investigator, inspector, public prosecutor or judge must always ask persons delivered from custody how they have been treated during questioning and investigation, and enquire about the conditions of their detention. For each case of torture or other illegal method of inquiry, a careful investigation must be conducted, including a medical examination. Officials found to be involved in the use of any illegal means of investigation, including torture and other cruel or humiliating treatment, are subject to remedial or criminal prosecution.

Recommendation (l)

78. The Ministry of Internal Affairs, in collaboration with the Uzbekistan Bar Association, has developed and introduced regulations on the invitation of lawyers and their participation in pre-investigation and in preliminary investigation on the protection of the rights and interests of suspects and accused persons, especially during the initial stages of investigation. On the basis of the regulations, a suspect or accused person has the right to a defence lawyer, who can represent his or her client from the moment of detention (no later than the first 24 hours) and meet with him or her in private.

79. According to the regulations, each investigatory division has a legal consultation office in which lawyers are available 24 hours a day on first call to represent the interests and rights of detained persons.

80. In accordance with the measures of the General Prosecutor's Office for the first half of 2004, the coordination council of law enforcement bodies discussed issues related to the observance of the law when considering complaints and applications of citizens about wrongful actions by law enforcement officials and supervising bodies. In addition, the board of the General Prosecutor's Office discussed measures on strengthening public prosecutor supervision of respect for the constitutional rights of citizens during detention, indictment and arrest.

81. The mass media constantly cover the right of detained persons to a defence. An instruction booklet on the rights of all parties in criminal process has been developed and distributed to the employees of law enforcement bodies. The booklet, accessible to all citizens, is also officially distributed to arrested or detained persons. The booklet explains their right to a defence.

Recommendation (m)

82. Within the framework of a project to promote ongoing legal instruction, a centre of continuous education of lawyers has been established. In 2004, more than 60 lawyers received their first-level training at the centre and all other lawyers of Uzbekistan continue to receive training on the second level. Since 2003, the Bar Association and the Ministry of Justice have jointly conducted training courses at the centre. In 2005, 90 lawyers were to be trained at the centre. Around 60 of them have already attended professional development courses. In 2006, 32 lawyers will be trained at the centre. To date, 21 of them have already completed qualification upgrading courses. In 2005, 107 lawyers attended training courses at the educational centres of the Uzbekistan Bar Association. In 2006, for the first time the manual *Lawyers' Rights* was published.

83. The Bar Association and the Ministry of Justice are currently developing a draft for reforming the bar, as a basis for adopting a new law on the bar, improving the legislation of the judicial system and the further implementation of the Convention against Torture.

84. The mass media constantly cover legal aid practices. The Bar Association has its own magazine, *The Lawyer*, published in Uzbek and Russian. The Bar Association also has its own website (www.advocates.uz). The website is a platform for lawyers that provides essential information and a forum for discussions. The site was financed by the Government of the Netherlands under the Umbrella Project for Human Rights in Uzbekistan.

85. The Ministry of Health and the Ministry of Internal Affairs have established a training programme on the medico-biological issues of torture and their consequences for doctors working in the correctional system.

86. In 2004, the Ministry of Health trained 90 doctors employed in the correctional system in finding ways to detect residual signs of physical torture or other kinds of cruel treatment. Training courses are continuing.

Recommendation (n)

87. In April 2003, the Ministry of Internal Affairs issued a decree on rules relating to the use of temporary detention cells and related medical services. According to

the decree, any person brought to a cell is subject to a medical examination, the results of which must be reported. Similar requirements are applicable to detention cells used during investigations.

88. With a view to strengthening cooperation between prison and public health services, as well as improving the quality of health services for persons in custody, with the assistance of the regional representation of Penal Reform International, the Republican Coordination Council for prison health services, which includes experts from the Ministry of Health, medical workers from the Ministry of Internal Affairs and representatives of non-governmental organizations, is operational and functioning well. The Council holds its meetings, with the participation of international experts, to discuss issues relating to prison health services. The Secretary-General of Penal Reform International, Baroness Vivien Stern, a Life Peer of the House of Lords of Great Britain, visited Uzbekistan.

Recommendation (o)

89. The Government of Uzbekistan actively distributes information and educational materials concerning the prohibition of torture. Many official bodies, non-governmental and international organizations are involved in this work. During the period 2002-2004, a collection of the main international documents of the United Nations, OSCE and UNICEF were published in the official language three times. About 10,000 copies were printed, including 5,000 copies specially intended for law enforcement bodies. Other editions were distributed to tertiary institutions, mainly to law schools.

90. In January 2004, with the support of the Embassy of the United Kingdom of Great Britain and Northern Ireland in Tashkent, the *Torture Reporting Handbook* by Camille Giffard, was published in the official language. It should be noted that the financial support of different international organizations, such as UNDP and its development support services, and OSCE, made the publication of the handbook possible.

91. The curriculum of the Republican Training Centre for lawyers includes courses such as "National law in the Republic of Uzbekistan and international standards of justice", "Basics in international humanitarian law", "Legal basis of the fight against international crime", "The place and role of international standards in the activities of law enforcement bodies" and "The national law of the Republic of Uzbekistan and international law for human rights". During the courses, participants (regional judge nominees, employees of the Ministry of Justice and lawyers) are informed about international standards in the sphere of human rights and the Convention against Torture.

92. Special lectures and practical classes on identifying, during trial proceedings, violations of the rights and freedoms of citizens, as defined by articles 17, 46 and 48 of the code of penal procedure (i.e., detection of the use by inquiry and investigation bodies of illegal, unlawful and forbidden methods of treatment of suspects or accused persons), are included in group curricula for newly appointed judges, as well as for judges on criminal cases at the regional and district levels. Courses are also being organized on the examination by courts of complaints and petitions relating to torture or other unlawful methods.

93. In November 2002, a seminar for trainers was held on international human rights standards in the field of criminal law proceedings. The event was the initiative of the American Bar Association, the Office for Democratic Institutions and Human Rights (OSCE) and the National Human Rights Centre. Judges, lawyers, prosecutors, internal affairs bodies and national security service officials participated in the seminar. The aim of the event was to prepare national trainers, teachers and specialists to pass their skills on to students in educational institutions and professional development courses. The main document, the provisions of which are taught during such seminars, was the International Covenant on Civil and Political Rights, ratified by Uzbekistan in 1995. At the seminar, special attention was paid to the provisions of the Covenant and the Convention against Torture.

94. In the framework of the plan on the implementation of the recommendations of the Committee against Torture, the OSCE centre in Tashkent and the Department of Correctional Facilities of the Ministry of Internal Affairs are implementing a project aimed at increasing the level of legal literacy of penitentiary personnel and inmates and their awareness of basic international standards in human rights. As part of the project, the Department established its own training centre to retrain and improve the skills of correctional facility personnel.

95. International law was introduced as a compulsory subject in the educational institutions of law enforcement agencies, namely, the Academy of the Ministry of Internal Affairs, the Institute of the national security service, the Professional Development Centre for Lawyers of the Ministry of Justice and the Professional Skills Centre of the General Prosecutor's Office.

96. The Department of Investigation of the Ministry of Internal Affairs submitted to its superiors for consideration a proposal to introduce an assessment of officers on their knowledge of international human rights standards during certification of their skills and promotion to new positions or ranks. The proposal has received the backing of the highest levels of the Ministry of Internal Affairs. If approved, the new practice will be used for other law enforcement agencies in Uzbekistan.

97. The Ministry of Internal Affairs, with the financial support of the UNDP office in Tashkent and in collaboration with the National Human Rights Centre of Uzbekistan and other relevant Government agencies, published in Uzbek a compilation of the international human rights documents ratified by Uzbekistan and pertinent to the activities of law enforcement agencies.

98. The Department of Investigation and the Uzbekistan Bar Association developed, and implemented on 1 October 2006, a regulation on ensuring protection of the rights of detained, suspected and accused individuals during preliminary investigation and interrogation. Moreover, in order to further familiarize the parties involved in legal/criminal proceedings with their rights and obligations, as well as to enhance the legal literacy and awareness of the general public and of the personnel of all internal affairs departments and penitentiary facilities, information boards and posters on human rights were printed and posted in all departments and divisions of the Ministry of Internal Affairs.

99. In September 2004, with the assistance of the American Bar Association and the Embassy of Switzerland, 100,000 copies of the brochure "What should you know about your rights?" was published. The brochure is given to all individuals in

detention. All copies are published for the Ministry of Internal Affairs, and a similar brochure is to be prepared for prosecutors and the national security service.

100. The brochure "Prison management and human rights" was published recently. The results of the implementation of measures relating to the present recommendation were discussed at the meeting of the interdepartmental working group on 18 November 2004.

Recommendation (p)

101. In accordance with recommendation (p), an expert group was established, comprising representatives of the Ministry of Justice, the Ministry of Internal Affairs, the General Prosecutor's Office and the Ombudsman. The group developed a framework for the further development and improvement of the correctional system of the Ministry of Internal Affairs for 2005-2010. The framework envisages a review of the issues raised by the transfer of responsibility for the system from the Ministry of Internal Affairs.

Recommendation (q)

102. The application of articles 985 to 991 of the civil code of Uzbekistan, providing for compensation for moral and material damages incurred by persons subjected to torture or other cruel treatment, has been considered. This right is established by the decision of the plenary session of the Supreme Court dated 28 April 2000 relating to questions of the application of laws on compensation for moral damage.

103. Moreover, in order to improve the system of compensation and rehabilitation of torture victims within the framework of the plan on implementation of the recommendations of the Committee against Torture, and owing to its urgency, the matter is constantly monitored by the interdepartmental working group. Some positive results have been achieved. According to the data of the national security service, 490 million sum were paid as compensation in 2002, and 850 million sum and $450,000 in 2003.

Recommendation (r)

104. The revised version of the law relating to the appointment by the Oliy Majlis of an Ombudsman responsible for human rights issues was adopted in August 2004. On 30 September 2004, the law was published in all newspapers nationwide. Article 13 of the law describes the rights of the Ombudsman, including the right to consider complaints. Article 14 stipulates the right of the Ombudsman to meet and talk to detained or arrested persons. Under the same article, the Ombudsman may apply to relevant agencies to bring to account officials whose actions have constituted a violation of human rights and liberties.

105. Guarantees for the protection of human rights during the investigation of complaints by the Ombudsman are also laid down. Article 19 states that complainants, and the persons appointed by the Ombudsman to collect and analyse data and to conduct expert evaluations, will not be subject to persecution or be

restricted in their rights during their activities. Representatives of the Ombudsman have visited almost all correctional facilities.

106. Agreements on cooperation to guarantee human rights and freedoms were signed by the Ombudsman and the Ministry of Internal Affairs on 10 December 2004, as was a memorandum on cooperation between the Ombudsman and the Ministry of Justice, on 28 September 2005.

107. The issue of establishing an Ombudsman for prisons is currently being considered.

Recommendation (s)

108. According to resolution 239-33 of the Cabinet of Ministers of Uzbekistan relating to the protection of State secrets dated 5 May 1994, information on the date of execution of death sentences and the burial place of persons sentenced to capital punishment is classified a State secret and completely confidential. The provision is also laid down by article 140 of the correctional code. In accordance with international standards, the Ministry of Internal Affairs is currently developing an instruction on informing the relatives of persons sentenced to death. In the meantime, the proposals received from the General Prosecutor's Office, the Ombudsman and the Ministry of Justice are summarized by the Ministry of Internal Affairs. After completion, a draft law will be submitted to the Parliament of Uzbekistan.

109. The main thrust of the liberalization process of the judicial and legal system, as well as that of the criminal correctional system, is the gradual narrowing of the applicability of the death sentence. When Uzbekistan achieved independence, its penal code contained more than 30 articles providing for capital punishment. By 1994, the number of articles had been reduced to 13; by 1998, to 8; and by 2001, to 4. Today, following the implementation in 2003 of a set of measures on the liberalization of penal law, the death sentence is provided for only two crimes: deliberate murder with aggravating circumstances, and terrorism.

110. In penal law, the number of crimes for which capital punishment can be applied accounts for less than 1 per cent of all acts. Irrespective of the gravity of the crime, the application of this kind of punishment to minors, women and persons older than 60 is forbidden by law.

111. It is worth noting that the number of death sentences carried out is decreasing annually. If one compares figures of 2000 to those of 2004, it becomes clear that the number of death sentences executed decreased by almost nine times. During the period 2002-2004, 32 death sentences were commuted to terms of imprisonment.

112. Capital punishment has become a subject of constant discussion among the general public and the mass media; 238 television programmes, 463 radio broadcasts and more than 270 newspaper and journal articles were devoted to the discussion of the provisions of the decree on the abolition of capital punishment. Moreover, 23 scientific conferences, 148 seminars and 265 round tables were held on this issue. For example, in 2005-2006, with the assistance of the Friedrich Ebert Foundation, seminars were held in various cities of Uzbekistan (Tashkent, Bukhara, Samarkand, Nukus and Urgench) on the issue, with the participation of the

Bundestag member, the former Federal Minister of Justice of Germany, Herta Däubler-Gmelin.

113. The approach adopted by Uzbekistan to penal matters and to the application of capital punishment fully complies with international trends and reflects the principles of humanism and justice proclaimed by the Constitution of Uzbekistan.

114. On 1 August 2005, the President of Uzbekistan issued an historic decree on the abolition of capital punishment. Thus, Uzbekistan joined those States that have abolished the death penalty. It is important to note that the measure is not a simple moratorium on capital punishment, as is sometimes the case in other countries, where convicted persons can wait for years, but is a case of total abolition. Thus, as from 1 January 2008, capital punishment will be abolished and be replaced by long-term or life imprisonment.

115. Today, a wide range of legislative, informative and organizational initiatives are being implemented to accompany the abolition of capital punishment and its replacement by long-term or life imprisonment, amendments and additions are being made to and prepared for the penal code, the correctional code and the code of penal procedures. On 29 June 2006, the President of Uzbekistan issued a decree on additional measures to prepare legislative and normative acts for the abolition of capital punishment in the Republic of Uzbekistan.

116. The abolition of capital punishment will require awareness-raising work with the general public; first of all, to make clear why it needs to be abolished. As an annual sociological survey of the population by a non-governmental body indicated, more than 75 per cent of respondents opposed the abolition of capital punishment.

117. It will be necessary to implement organizational measures, including the construction of facilities to house people in detention whose death sentence has been commuted to life or long-term imprisonment, as well as for training personnel to work in these facilities.

118. Complete abolition of capital punishment will take more than two years. It will be completely abolished on 1 January 2008. The total abolition of the death sentence as an exceptional criminal punishment will be in compliance with universally recognized principles and norms of international law, as well as with the provisions of the Constitution of Uzbekistan proclaiming the right to life.

Recommendation (t)

119. In 2003, the representatives of European Union embassies (France, Germany, Italy, the Netherlands and the United Kingdom of Great Britain and Northern Ireland) in Uzbekistan twice visited prison UJA 64/71 in Jaslyk. In 2003, journalists from France Press, Associated Press, Reuters and BBC Radio also visited the prison. From 25 to 28 July 2004, the Republican Commission, comprising representatives of the General Prosecutor's Office, the Ombudsman, the Ministry of Justice, the National Human Rights Centre and the Ministry of Internal Affairs, assessed living conditions in the prison. The Commission found that the conditions in the facility were up to standards. At the same time, however, the interdepartmental working group decided that conditions in the prison needed to be improved and monitored on a regular basis. In 2004, the adviser to the United States Ambassador to Uzbekistan on socio-economic and political issues, Sylvia Curran, and the Director of Freedom

House in Uzbekistan, Mjusa Sever, visited the prison. In October 2004, it was also visited by the regional adviser of the Office of the United Nations High Commissioner for Refugees on human rights in Central Asia, Rein Mullerson, and the Deputy Director of the National Human Rights Centre of Uzbekistan. The visitors assessed positively the activity of the facility and expressed their readiness to continue and strengthen cooperation.

Recommendation (u)

120. In 2003 and 2004, the Department of Correctional Facilities received from the Ministry of Foreign Affairs 18 appeals from the Human Rights Committee concerning 31 people sentenced to death and whose cases were being monitored by the Committee. Of that group, 15 were executed (Sh. Andasbaev, U. Eshov, I. Babajanov, M. Ismailov, M. Mirzaev, A. Uteev, O. Ruzmetov, U. Ruzmetov, O. Makhmudov, N. Bazarov, O. Kupalov, B. Yusupov, J. Madrakhimov, I. Sunnatov and A. Karimov) before the appeals were received. The death sentence of 7 others (A. Kornetov, A. Isaev, N. Karimov, E. Gugnin, F. Karaev, I. Karimov and S. Alisov) was commuted to a term of imprisonment. The execution of 8 persons (F. Nasmbulin, I. Khudaiberganov, Sh. Juraev, F. Alimov, A. Buryachek, I. Ibragimov, Sh. Baibulatov and S. Kadirov) was suspended pending the examination of their petitions by the pardon board of the President of Uzbekistan. During that period, the execution of persons whose cases had been admitted for consideration by the Human Rights Committee was suspended when the appeals were received. In accordance with the recommendations of the Special Rapporteur, State agencies have introduced the temporary measures recommended by the Human Rights Committee, namely, the suspension of the execution of persons whose cases are under consideration by the Human Rights Committee and for whom an appeal has been submitted by the Committee to the Government.

121. The draft law on amendments and additions to the correctional code of Uzbekistan has been prepared. According to the draft law, formal notification by the Human Rights Committee that the case of a person sentenced to death has been submitted for consideration by the Committee constitutes grounds for a suspension of the sentence.

Recommendation (v)

122. At this time, the interdepartmental working group is developing proposals for the implementation of article 22 of the governmental action plan as well as for submitting reports to the Committee against Torture, as stipulated by article 22.2 of the action plan.